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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,843	10/06/2003	Wade L. Hennessey	KON03-0004	5384
22835 7590 05/17/2007 PARK, VAUGHAN & FLEMING LLP 2820 FIFTH STREET DAVIS, CA 95618-7759			EXAMINER DUONG, FRANK	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 05/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/680,843

Applicant(s)

HENNESSEY ET AL.

Examiner

Frank Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7-11,17-21 and 27-30 is/are rejected.
- 7) ☒ Claim(s) 2-6,12-16 and 22-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

1. This Office Action is a response to communications dated 10/06/03. Claims 1-30 are pending in the application.

Claim Objections

2. Claim 30 is objected to because of the following informalities: According to the claim language, claim 30 should depend from claim 21 instead. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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3. Claims 1, 10-11, 20-21 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushmitch (USP 5,928,331) in view of Cranor et al (Enhanced Streaming Services in a Content Distribution Network, IEEE, pages 65-75, 2001) (hereinafter "Cranor").

Regarding **claim 1**, in accordance with Bushmitch reference entirety, Bushmitch a method for optimizing content delivery on a network (Fig. 6), comprising: receiving a broadcast request for the content from a second client on a local subnet (*col. 6, lines 36-39, it is disclosed unit 18 receiving a request from client 16 for a particular media selection*); sending (transmitting) a broadcast response (Stream Open Message) to the local subnet (*multicast group of Fig. 6*), wherein the broadcast response identifies a multicast address to which the first client will deliver the content (*col. 6, lines 39-53, it is disclosed unit 18 transmits a Stream Open Message to those Media Push Engines 12 that have some substream components of the requested selection and the multicast address for the participants is obtained*); and delivering the content to the multicast address so that the second client and any other interested clients on the local subnet can receive the content (*col. 6, line 55 to col. 7, lines 6, the requested substream components are supplied to client 16*). At col. 4, lines 1-10, in accordance with Fig. 2, it is disclosed two multimedia streams X and Y having substream components are stored in the Media Push Engines 12. It appears that Bushmitch may not explicitly disclose the limitation of receiving content at a Media Push Engine 12 (a first client). However, such limitation lacks thereof from Bushmitch reference is well known and disclosed by Cranor.

In an analogous art, Cranor discloses enhanced streaming services in a content distribution network (*Cranor, page 67, Fig. 1*) comprising, among other things, Portals (*equivalent to Bushmitch's Media Push Engines 12*) for receiving multimedia content from live sources or other portals (*Cranor, page 67, Prism Architecture Elements, second bullets*), to allow user to view the multimedia content on demand.

Thus, it would have been obvious to those skilled in the art at the time of the invention to incorporate Cranor's Portals in place of Bushmitch's system to arrive the claimed invention with a motivation to allow user to view the multimedia content on demand.

Regarding **claim 10**, in addition to features recited in base claim 1 (see rationales discussed above), Bushmitch in view of Cranor also discloses wherein the second client starts receiving the multicast of the content while the multicast is already in progress (**col. 7, lines 4-7**)

As per **claims 11 and 20**, the claim calls for a computer-readable storage medium storing instructions that when executed by a computer causes the computer to perform the method steps of claims 1 and 10, respectively. The claims are anticipated by the same rationales applied to claims 1 and 10.

As per **claims 21 and 30**, the claims call for an apparatus having limitations mirrored the method steps of claims 1 and 20. Thus, they are anticipated by the same rationales applied to claims 1 and 20.

4. Claims 7-9, 17-19 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushmitch in view of Cranor as applied to claim 1 above, and further in view of Wee et al (Research and Design of a Mobile Streaming Media Content Delivery Network, IEEE, pages 1-4, July 2003) (hereinafter "Wee")

Regarding **claims 7-9**, in addition to features recited in base claim 1 (see rationales discussed above), Bushmitch in view of Cranor may not explicitly disclose wherein the network adheres to the 802.11x protocols. However, such limitation lacks thereof from Bushmitch in view of Cranor reference is well known and disclosed by Wee.

In an analogous art, Wee teaches a mobile streaming media content delivery network (Figure 1), wherein the network adheres to the 802.11x protocols (see Wee, Abstract and page 4, section 4) to provide large scale media delivery services to mobile users (see *Wee*, page 2, right column, first paragraph).

Thus, it would have been obvious to those skilled in the art to implement the Bushmitch in view of Cranor's method to adhere to the 802.1x protocols in a manner as taught by Wee to arrive the claimed invention with a motivation to provide large scale media delivery services to mobile users (see *Wee*, page 2, right column, first paragraph).

Regarding **claims 17-19**, the claims call for a computer-readable storage medium embodied computer instruction for performing the method steps of claims 7-9. They are anticipated by the same rationales applied to claims 7-9.

Regarding **claims 27-29**, the claims call for an apparatus having limitations mirrored the method steps of claims 7-9. Thus, the same rationales in the rejection of claims 7-9 discussed above are applied.

Allowable Subject Matter

5. Claims 2-6, 12-16 and 22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, considered individually or in combination, fails to fairly show or suggest the claimed invention of base claims 1, 11, 21 and further limit with novel and unobvious limitations as following:

“sending a first broadcast to the local subnet requesting the content; if a response to the first broadcast is received, receiving the content via a multicast transmission from another client on the local subnet; and if a response to the first broadcast is not received, receiving the content via a unicast transmission from a source outside of the local subnet,” structurally and functionally interconnected with other limitations in a manner as recited in claims 2-5, 12-15 and 22-25.

“receiving a broadcast message at the first client from another client on the local subnet announcing that the other client is transmitting another item of content, and including a second multicast address for delivery of the other item of content; determining if the first client needs the other content; and if so, receiving the other

content at the first client via the second multicast address," structurally and functionally interconnected with other limitations in a manner as recited in claims 6, 16 and 26.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hennessey et al (Patent Application Publication 2003/0028777).

Hennessey et al (Patent Application Publication 2003/0028623).

McCanne (USP 6,611,872).

Kinoshita et al, THE REALPUSH NETWORK: A NEW PUSH-TYPE CONTENT DELIVERY SYSTEM USING RELIABLE MULTICASTING, IEEE, pages 1216-1224, November 1998.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is 571-272-3164. The examiner can normally be reached on 7:00AM-3:30PM, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Feild can be reached on 571-272-2092. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



FRANK DUONG
PRIMARY EXAMINER

May 10, 2007